

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KENNETH MALIK MILLER,  
Plaintiff,

v.

TAMMY FERGUSON, *et al.*,  
Defendants.

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CIVIL ACTION NO. 19-CV-2456

FILED

OCT - 4 2019

ORDER

KATE BARKMAN, Clerk  
By: \_\_\_\_\_ Dep. Clerk

AND NOW, this 3<sup>d</sup> day of October, 2019, upon consideration of Plaintiff Kenneth

Malik Miller's Amended Complaint (ECF No. 11), it is **ORDERED** that:

1. The Amended Complaint is **DISMISSED IN PART WITH PREJUDICE AND IN PART WITHOUT PREJUDICE** pursuant to 28 U.S.C. § 1915 (e)(2)(B)(ii). The following claims are **DISMISSED WITHOUT PREJUDICE**: claims involving the loss or destruction of Miller's orthopedic shoes and the opening of his legal mail outside of his presence. All other claims are **DISMISSED WITH PREJUDICE**.

2. Miller is given thirty (30) days to file a second amended complaint concerning his claim involving the loss or destruction of his orthopedic shoes. Any second amended complaint must be a complete document and not incorporate the original complaint or the amended complaint by reference. Miller must identify all defendants in the caption of the second amended complaint in addition to identifying them in the body of the second amended complaint, and shall state the basis for Miller's claims against each defendant. Miller should provide enough information for the Court to understand what happened to him and how each named Defendant personally acted to cause injury to himself. When drafting his second amended complaint, Miller should be mindful of the Court's reasons for dismissing his claims as explained in the


Court's Memorandum. Upon the filing of a second amended complaint, the Clerk shall not make service until so **ORDERED** by the Court.

3. The claim concerning the opening of Miller's legal mail outside of his presence is **SEVERED** from the remaining claims in this lawsuit. Miller is given leave to file a separate lawsuit to raise this claim.

4. The Clerk of Court shall send Miller a blank copy of the Court's form complaint for a prisoner filing a civil rights action bearing the above civil action number. Miller may use this form to file his second amended complaint if he chooses to do so. No claim previously dismissed with prejudice or ordered severed shall be reasserted in Miller's second amended complaint.

5. If Miller fails to file a second amended complaint in accordance with paragraph two (2) of this Order, this case may be dismissed without prejudice for failure to prosecute without further notice.

**BY THE COURT:**

  
JOEL H. SLOMSKY, J.